

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

David Mark Philips,

Civ. No. 06-424 (PAM/JSM)

Plaintiff,

v.

ORDER

David Hartford, Director of
Anoka Metro Regional Treatment
Center, et al.,

Defendants.

This matter is before the Court on Plaintiff's apparent objections to the April 12, 2006, Report and Recommendation ("R&R") of Magistrate Judge Janie S. Mayeron. The Court overrules the objections as untimely, dismisses this action without prejudice, and directs Plaintiff to file a new action if he seeks to pursue his claims.

Plaintiff commenced this action on January 31, 2006, and sought leave to proceed in forma pauperis ("IFP"). On February 17, 2006, the Magistrate Judge informed Plaintiff that the IFP application was inadequate and provided him twenty days to either file an amended application or pay the full filing fee. (Docket No. 3 at 2.) The Magistrate Judge expressly advised Plaintiff that if he did not file an amended IFP application or pay the full filing fee within the prescribed time limit, the Magistrate Judge would recommend that the action be summarily dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(b). (Id.)

Plaintiff did not respond for two months. Accordingly, on April 12, 2006, the Magistrate Judge recommended that the Court dismiss this action without prejudice. (Docket No. 5 at 1-2.) Objections to the R&R were due by May 1, 2006. (Id. at 2.) Because no objections to the R&R were timely filed, the Court adopted the R&R and dismissed this action without prejudice on May 9, 2006. (Docket No. 6.)

Plaintiff now contends that he did not receive the R&R until after the deadline to object had passed. However, Plaintiff does not claim that he failed to receive notice from the Magistrate Judge that he was to file an amended IFP by March 9, 2006. Indeed, Plaintiff did not contact the Court until several months thereafter. Because Plaintiff did not file an amended IFP application or pay the full filing fee within the prescribed time limit, **IT IS HEREBY ORDERED** that:

1. Plaintiff's purported objections (Docket No. 8) are **OVERRULED**;
2. Plaintiff's Motion for Leave to Proceed In Forma Pauperis (Docket No. 9) is **DENIED as moot**;
3. The Court's Order of May 9, 2006 (Docket No. 6) remains in effect; and
4. The Complaint (Docket No. 1) is **DISMISSED without prejudice**.

Dated: May 22, 2006

s/ Paul A. Magnuson
Paul A. Magnuson
United States District Court Judge